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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,697	02/04/2004	Tomonori Hirose	02-51211	3933

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EXAMINER	
MARANDI, JAMES R	

ART UNIT	PAPER NUMBER
2421	

NOTIFICATION DATE	DELIVERY MODE
10/12/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/771,697	HIROSE, TOMONORI	
	Examiner	Art Unit	
	JAMES R. MARANDI	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3,5,6,8,10-13 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3, 5, 6, 8, 10-13, and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/2010 has been entered.

Response to Amendment

2. This action is in response to applicant's amendment filed on 4/27/2010. Claims 3, 5, 6, 8, 10-13, and 15 are presently pending. Claims 1, 2, 4, 7, 9, and 14 have been canceled

Response to Arguments

3. Applicant's arguments, filed on 4/27/2010, with respect to claims 3, 5, 6, 8, 10-13, and 15, have been fully considered but they are not persuasive.

3.1. With respect to claim 8, applicant argues that "Iki also recites in column 1, lines 47-50 that "One problem facing users with these increased television programming options is the possibility for the receipt of multiple versions of essentially the same program from multiple sources." Therefore, in Iki, "same programs" with different versions are selection choices. The "same programs" are considered to have same scenes and thus, the same "scene description content" ", Page 7 of Remarks, 4th paragraph

Examiner disagrees. First, Iki's Col. 1, lines 47-50 describes an aspect of the problem addressed by Iki, namely multiple sources providing essentially the same program. However, applicant fails to consider lines immediately following lines 47-50, namely 50- 56, where Iki discloses differences may exist in the versions of the same program. For example, a version may be the R rated version, which may have scenes inappropriate for children, therefore applicant's

conclusion that “same programs” are considered to have same scenes and description content is not correct.

Iki further discloses in Fig. 3, step 316 that programs are selected based on user preferences. Program descriptions and characteristics are disclosed in Fig. 4, elements 412, and 414 which are the basis of determining whether the program matches user preferences or not.

As to “Scene Description” in particular, the system of Dureau and Iki does not disclose that the video content analysis is based on **scene description content of meta-data.**

However Tabatabai discloses analyzing and matching of video content and description data as it relates to MPEG-7 (¶ [17], Fig. 6, ¶ [48]).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau and Iki with Tabatabai teaching in order to take advantage of scene and content description for delivery of the most appropriate content to the viewer.

3.2. Applicant further argues that "... the Office Action does not appear to cite specific portions of Dureau or Tabatabai as disclosing the above-noted features of claim 8" Page 7, last line through Page 8, first two line of the Remarks

Examiner disagrees. As analyzed above, and also cited in the Office Action of 11/05/2009, page 16, Section 5.1, 3rd paragraph, the specific portion of Tabatabai has been cited.

3.3. Foe claims 3, 5, and 6 applicant has presented no new arguments and relies on their dependence on claim 8 which has been addressed above.

3.4. For claims 10, 13, and 15, applicant relies on the noted feature of claim 8 as presented and responded to above.

3.5. For claims 11, and 12 applicant has presented no new arguments and relies on their dependence on claim 10 which has been addressed above.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.1. Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claim 15, applicant recites “A computer-readable recording medium”. The recording medium itself covers forms of non-transitory tangible media and transitory propagating signals. Furthermore, the specification does not preclude “transitory propagating signals".

The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zeltz*, 893 F.2d 319 (Fed. Cir. 1989). The broadest reasonable interpretation of a claim drawn to computer readable medium typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary

meaning of computer readable media, particularly when the specification is silent. *See* MPEP 2111.01.

A claim drawn to such a computer-readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiment to avoid a rejection under 35 U.S.C. § 101 by adding the limitation "non-transitory" to the claim. *Cf. Animals- Patentability, 1077 Off. Gaz. Pat. Office* 24 (April 21, 1987). Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. See Director Kappos' January 26th, 2010 memo.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 3, 5, 6, 8, 10- 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dureau, USPGPUB 2003/0135860 (hereinafter "Dureau") in view of Iki et al., USPN 7,240,356 (hereinafter "Iki"), further in view of Tabatabai et al., USPGPUB 2003/0031260 (hereinafter "Tabatabai").

6.1. Regarding claim 8 Dureau discloses **a video selection server** (Fig 1., 12 Proxy receiver; and Fig 3, 340 next generation proxy receiver, serves content received from various sources destined for the local networks 50, or within the home, also ¶ [42]) **for selectively relaying video information**, **comprising:**

a receiving unit to receive a video stream containing a plurality of videos delivered via a first network (Fig. 1, networks connected via 138, 42, and 136) **and separate the received video stream into plurality of video streams corresponding to the respective videos (**as shown in Figs. 1 and 3, the proxy server 12 (or NG Receiver 340), receives multiple program streams via 42 from broadcast stations 16 (sources 14, and 15), and networks 17, separating and distributing the same through receivers 30 (1 –N); (In case of 340, the multiple programs are received from 360,362, and 371, and distributed to Television 357, receiver 352, etc.). The function of a receiver is to separate

received programs (in case of MPEG-2, separating MPTS into SPTS and individual programs.)**;**

an information analysis unit (Fig. 6) **to analyze the separated video streams** (at step 602 the received stream is analyzed and its format ascertained)**;**

a decision unit (606, 610) **to determine whether or not a result of analysis by the information analysis unit fulfills a criterion related to video contents** format **indicated in a request from a client** (client format/ request is indicated at 604) **on a second network and to judge whether to permit delivery of the separated video stream to the client when the** format **is previously set as deliverable contents under the criterion** (the second network is element 50 of Fig. 1, and network of devices 352 in Fig. 3. These devices register with 340 and 12 to indicate their capability, and 340 decides how to distribute/ transcode content from first network ¶¶ [13] and [42]. client format/ request is indicated at 604 is compared to the received stream to see if the request can be met, or should it be denied as in 616))**; and**

a transmitting unit, to transmit to the client, the separated video streams of which the delivery to the client has been permitted by the decision unit.(Fig. 3, ¶¶ [33]-[37])

Though Dureau discloses analyzing the content format, he is not explicit in analyzing the **content description** in distinguishing amongst content.

However, Iki discloses analyzing **content description** in determining delivery of the appropriate content to the user (see Abstract, Fig. 1, Fig. 4 (414); Col. 8, lines 23- 51);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau with Iki's invention in order to check for the appropriate content, as desired by the user, and deliver the same to match the format of the user's device.

The system of Dureau and Iki does not disclose that the video content analysis is based on **scene description content of meta-data if the encoding scheme of the video stream is MPEG-7.**

However Tabatabai discloses analyzing and matching of video content and description data as it relates to MPEG-7 (¶ [17], Fig. 6, ¶ [48]).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau and Iki with Tabatabai's teaching in order to take advantage of scene and content description for delivery of the most appropriate content to the viewer.

6.1.1. Regarding claim 3**,** Dureau discloses **wherein the received video stream was multicast on the first network**; (Dureau: receivers 12, and 340 are a node on the first network, as described in ¶ [26], they may receive content via broadcast, multicast, or point to pint (unicast)).

6.1.2. Regarding claim 5, Dureau discloses **wherein the received video stream was unicast via the first network**; (Dureau: receivers 12, and 340 are a node on the first network, as described in ¶ [26], they may receive content via broadcast, multicast, or point to pint (unicast))**.**

6.1.3. Regarding claim 6, Dureau discloses **wherein the information analysis means analyzes a transmission protocol of the video stream**, (See Dureau ¶ [34]).

6.2. Regarding claim 10, Dureau discloses **a video delivery system for delivering a video stream** (Figs. 1 and 3)**, comprising:**

an encoder to encode captured video to obtain a video stream containing a plurality of videos and deliver the video stream via a first network (Fig. 1, content captured from multiple sources 13-15, at the first network, or from internet 371, and satellite network 360, 362, in Fig. 3, are encoded in variety of formats. ¶ [35] enumerates examples of such formats for the elements of Fig.3 which is an expanded version of Fig. 1)**; and**

a video selection server (Fig. 1, 12**,** further illustrated in Fig. 3, 340**) to receive the video stream delivered via the first network** (Fig. 1, networks connected via 138, 42, and 136)**, separate the received video stream into plurality of video streams corresponding to respective videos (**as shown in Figs. 1 and 3, the proxy server 12 (or NG Receiver 340), receives multiple program streams via 42 from broadcast stations 16 (sources 14, and 15), and networks 17, separating and distributing the same through receivers 30 (1 –N); (In case of 340, the multiple programs are received from 360,362, and 371, and distributed to Television 357, receiver 352, etc.). The function of a receiver is to separate received programs (in case of MPEG-2, separating MPTS into SPTS and individual programs.)**, analyze the separated video streams** (Fig. 6, at step 602 the received stream is analyzed and its format ascertained)**, determine whether or not a result of the analysis fulfills a criterion related to a permitted** format **indicated in a request from a client (**client format/ request is indicated at 604) **on a second network , judge whether to permit delivery of the separated video streams to the client when the** format **is previously set**

as deliverable contents under the criterion (the second network is element 50 of Fig. 1, and network of devices 352 in Fig. 3. These devices register with 340 and 12 to indicate their capability, and 340 decides how to distribute/ transcode content from first network ¶¶ [13] and [42]. client format/ request is indicated at 604 is compared to the received stream to see if the request can be met, or should it be denied as in 616))**, and transmit, to the client the video streams of which the delivery to the client has been permitted,** (steps 606, 610; The second network is element 50 of Fig. 1, and network of devices 352 in Fig. 3. These devices register with 340 and 12 to indicate their capability, and 340 decides how to distribute/ transcode content from first network ¶¶ [13] and [42]. Client format/ request is indicated at 604 is compared to the received stream to see if the request can be met, or should it be denied as in 616. Also see Fig. 3, ¶¶ [33]-[37]).

Though Dureau discloses analyzing the content format, he is not explicit in analyzing the **content description** in distinguishing amongst content.

However, Iki discloses analyzing **content description** in determining delivery of the appropriate content to the user (see Abstract, Fig. 1, Fig. 4 (414); Col. 8, lines 23- 51);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau with Iki's invention in order to check for the appropriate content, as desired by the user, and deliver the same to match the format of the user's device.

The system of Dureau and Iki does not disclose that the video content analysis is based on **scene description content of meta-data if the encoding scheme of the video stream is MPEG-7.**

However Tabatabai discloses analyzing and matching of video content and description data as it relates to MPEG-7 (¶ [17], Fig. 6, ¶ [48]).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau and Iki with Tabatabai's teaching in order to take advantage of scene and content description for delivery of the most appropriate content to the viewer.

6.2.1. Regarding claim 11, Dureau discloses **wherein the video selection server has a multi-stage configuration such that the video stream transmitted from a preceding-stage video selection server is delivered to a succeeding-stage video selection server.** As shown in Dureau Fig. 6

there are multiple stages of decision making which pass the received video stream from one stage to the succeeding stage. Furthermore, there are no limits on the number of application servers in the network as disclosed by Dureau. Servers can be distinct or co-located as any other electronic components of the network, also see ¶ [28].

6.2.2. Claim 12 is rejected as claim 11.

6.3. Regarding claim 13 Dureau discloses **a video selection method** (Fig 1., 12 Proxy receiver; and Fig 3, 340 next generation proxy receiver, serves content received from various sources destined for the local networks 50, or within the home, also ¶ [42]) **for selectively relaying video information**, **comprising:**

receiving a video stream containing a plurality of videos delivered via a first network (Fig. 1, networks connected via 138, 42, and 136);

separating the received video stream into plurality of video streams corresponding to the respective videos (as shown in Figs. 1 and 3, the proxy server 12 (or NG Receiver 340), receives multiple program streams via 42 from broadcast stations 16 (sources 14, and 15), and networks 17, separating and distributing the same through receivers 30 (1 –N); (In case of 340, the multiple programs are received from 360,362, and 371, and distributed to Television 357,

receiver 352, etc.). The function of a receiver is to separate received programs (in case of MPEG-2, separating MPTS into SPTS and individual programs.)**;**

analyzing (Fig. 6) **at least an encoding scheme of the separated video streams** (at step 602 the received stream is analyzed and its format/encoding scheme is ascertained)**;**

determining (at 606, 610) **whether or not a result of analysis fulfills a criterion related to a permitted image** format **indicated in a request from a client** (client format/ request is indicated at 604) **on a second network, to judge whether to permit delivery of the separated video stream to the client when the** format **is previously set as deliverable contents under the criterion** (the second network is element 50 of Fig. 1, and network of devices 352 in Fig. 3. These devices register with 340 and 12 to indicate their capability, and 340 decides how to distribute/ transcode content from first network ¶¶ [13] and [42]. client format/ request is indicated at 604 is compared to the received stream to see if the request can be met, or should it be denied as in 616))**; and**

transmitting, to the client, the separated video streams of which the delivery to the second network has been permitted by the decision unit.(Fig. 3, ¶¶ [33]-[37])

Though Dureau discloses analyzing the content format, he is not explicit in analyzing the **content description** in distinguishing amongst content.

However, Iki discloses analyzing **content description** in determining delivery of the appropriate content to the user (see Abstract, Fig. 1, Fig. 4 (414); Col. 8, lines 23- 51);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau with Iki's invention in order to check for the appropriate content, as desired by the user, and deliver the same to match the format of the user's device.

The system of Dureau and Iki does not disclose that the video content analysis is based on **scene description content of meta-data if the encoding scheme of the video stream is MPEG-7.**

However Tabatabai discloses analyzing and matching of video content and description data as it relates to MPEG-7 (¶ [17], Fig. 6, ¶ [48]).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau and Iki with Tabatabai's teaching in order to take advantage of scene and content description for delivery of the most appropriate content to the viewer.

6.4. Regarding claim 15 Dureau discloses **a computer-readable recording medium recording a video selection program, which when executed by a computer, causes the computer to perform a method, the method comprising** (as shown in Fig 1., Proxy receiver 12; and Fig 3, 340 next generation proxy receiver):

receiving a video stream containing a plurality of videos delivered via a first network (Fig. 1, networks connected via 138, 42, and 136);

separating the received video stream into plurality of video streams corresponding to the respective videos (as shown in Figs. 1 and 3, the proxy server 12 (or NG Receiver 340), receives multiple program streams via 42 from broadcast stations 16 (sources 14, and 15), and networks 17, separating and distributing the same through receivers 30 (1 –N); (In case of 340, the multiple programs are received from 360,362, and 371, and distributed to Television 357, receiver 352, etc.). The function of a receiver is to separate received programs (in case of MPEG-2, separating MPTS into SPTS and individual programs.)**;**

analyzing (Fig. 6) **at least an encoding scheme of the separated video streams** (at step 602 the received stream is analyzed and its format/encoding scheme is ascertained)**;**

determining (at 606, 610) **whether or not a result of analysis fulfills a criterion related to a permitted image** format **indicated in a request from a client** (client format/ request is indicated at 604) **on a second network, to judge whether to permit delivery of the separated video stream to the client when**

the format **is previously set as deliverable contents under the criterion** (the second network is element 50 of Fig. 1, and network of devices 352 in Fig. 3. These devices register with 340 and 12 to indicate their capability, and 340 decides how to distribute/ transcode content from first network ¶¶ [13] and [42]. client format/ request is indicated at 604 is compared to the received stream to see if the request can be met, or should it be denied as in 616))**; and**

transmitting, to the client, the separated video streams of which the delivery to the second network has been permitted by the decision unit.(Fig. 3, ¶¶ [33]-[37])

Though Dureau discloses analyzing the content format, he is not explicit in analyzing the **content description** in distinguishing amongst content.

However, Iki discloses analyzing **content description** in determining delivery of the appropriate content to the user (see Abstract, Fig. 1, Fig. 4 (414); Col. 8, lines 23- 51);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau with Iki's invention in order to check for the appropriate content, as desired by the user, and deliver the same to match the format of the user's device.

The system of Dureau and Iki does not disclose that the video content analysis is based on **scene description content of meta-data if the encoding scheme of the video stream is MPEG-7.**

However Tabatabai discloses analyzing and matching of video content and description data as it relates to MPEG-7 (¶ [17], Fig. 6, ¶ [48]).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Dureau and Iki with Tabatabai's teaching in order to take advantage of scene and content description for delivery of the most appropriate content to the viewer.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

/James R. Marandi/
Examiner, Art Unit 2421